IN THE

Supreme Court of the United States

October Term, 1944

No. 667 [redacted] 2

THE BAY COUNTIES DISTRICT COUNCIL OF CARPENTERS OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, *et al.*

Petitioners

v.

THE UNITED STATES OF AMERICA

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

and

BRIEF IN SUPPORT THEREOF

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SUBJECT INDEX

CASES CITED

STATUTES CITED

IN THE

Supreme Court of the United States

October Term, 1944.

No. .....

THE BAY COUNTIES DISTRICT COUNCIL OF CARPENTERS OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, MILLMEN'S UNION NO. 42, THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, MILLMEN'S UNION NO. 550, J. F. CAMBIANO, C. H. IRISH, W. P. KELLY, EMIL H. OVENBERG, W. L. WILCOX and CHARLES ROE,

Petitioners,

v.

THE UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

To the Honorable Harlan Fiske Stone, Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United States:

The above named petitioners respectfully apply for issuance of a Writ of Certiorari to review the judgment of the Circuit Court of Appeals for the Ninth Circuit entered in this cause August 23, 1944 (R. 1697).

Statement of the Matter Involved

The decision of the Circuit Court affirmed judgments convicting petitioners of violating Section 1 of the Sherman Act, entered December 20th, 1941, in the District Court for the Northern District of California, Southern Division (R. 1366, 1373, 1377, 1379, 1387-1390).

Petitioners are local union organizations and individual officers or collective bargaining representatives thereof, affiliated with the United Brotherhood of Carpenters and Joiners of America of the American Federation of Labor.

Petitioners were indicted with other union defendants and two employer groups connected with the millwork industry in the San Francisco Bay Area (R. 4-37). One employer group affiliated with Lumber Products Association, Inc. pleaded nolo contendere (R. 106-109). Defendants in the other employer group affiliated with Commercial Fixture and Store Front Institute were tried by jury with the union defendants (R. 138).

Petitioners and other union defendants appealed to the Circuit Court from the judgments entered upon the jury's verdict (R. 1420). The employer group pleading nolo condendere appealed from the judgments based thereon (R. 1407).

The gravamen of the indictment is that defendants effectuated a conspiracy to restrain trade in millwork and patterned lumber manufactured outside the State of California by the defendant employers acceding to wage scale demands of defendant unions in return for which the wage scale agreement contained the clause that "... no material will be purchased from, and no work will be done on any material or article that has had any operation performed on same by Saw Mills, Mills or Cabinet Shops, or their distributors that do not conform to the rates of wage and working conditions of this agreement." (except certain named items) (R. 28).

The indictment then charges overt acts in continuing in effect and carrying out such agreement (R. 28-32). Also included are the stock forms of conclusory averments that defendant unions were not acting in the course of a labor dispute or to enforce legitimate objectives of labor (R. 32).

Statement of Jurisdiction

The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, 28 U. S. C. sec. 347 (a).

The judgment of the Circuit Court of Appeals was entered August 23, 1944 (R. 1697). A petition for rehearing was filed September 22, 1944, and was duly entertained and denied October 14, 1944 (R. 1698). The mandate has been stayed until November 17, 1944, and thereafter until disposition of the matter by this Court (R. 1699).

Statutes Involved

The Federal Statutes involved are the Sherman Act, Sec. 1, 15 U. S. C. 1, the Clayton Act, 15 U. S. C. 17 and 29 U. S. C. 52, and the Norris-LaGuardia Act, 29 U. S. C. 102 *et seq.**

Questions Presented

1. Is an agreement arrived at through the process of collective bargaining between unions and employers engaged in a local industry that "* * * no material will be purchased from, and no work will be done on any material or article that has had any operation performed on same by Saw Mills, Mills or Cabinet Shops, or their distributors, that do not conform to the rates of wage and working conditions of this agreement" illegal per se under the Sherman Anti-trust Law if enforced by peaceful, conventional union methods against material in interstate commerce?

* Pertinent provisions are quoted in Appendix

2. Would it be a defense for the unions that such agreement settled a labor dispute involving the union demand for a closed shop as to men and materials?

3. Would it be a defense for the unions to show that the direct and primary purpose of the demand for a closed shop was to unionize all local plants in the industry with the ultimate objective of better wages and improved working conditions?

4. Where a union does combine with non-labor groups through a collective bargaining agreement covering terms and conditions of employment, should the end, objective or purpose of the union be considered where an illegal restraint of interstate trade is claimed to have been intended or to have resulted from peaceful enforcement of the agreement?

5. Was the jury properly instructed that the "sole question is whether defendants intended to or did restrain the shipment of millwork and patterned lumber in interstate commerce pursuant to an understanding between the labor union defendants and the non-labor defendants" (R. 1554)?

6. Was the jury properly instructed that it would constitute no defense under the law, either to employer defendants or labor union defendants, that such agreement was arrived at in settlement of a labor dispute; or that the motive of the labor union defendants was to promote their self-interest (R. 1534-1537, 1552, 1553)?

7. Was the jury properly instructed that it should not consider whether the millwork and patterned lumber involved in the testimony in the case was union and bore a union label (R. 1554)?

8. Was the jury properly instructed that defendant union organizations, being unincorporated associations, were responsible for the act of an agent which the agent assumed to do for the union while performing duties actually delegated to him (R. 1530)?

9. Was it error not to give a requested instruction to the effect that an officer of a union is not authorized merely by virtue of his office to make his union a party to an unlawful conspiracy, but that to bind a union it is necessary to find that the union participated in, or actually authorized the act, or ratified it after actual knowledge (R. 1532, 1533)?

10. Was it error not to give a requested instruction to the effect that no individual defendant who was an officer or member of a union should be convicted for an unlawful act, if any, of another officer or member of the union, except upon clear proof that such individual defendant actually participated in or actually authorized such act, or ratified it after actual knowledge thereof (R. 1533)?

11. Where the Government charged that an agreement between employers and employees was made and enforced with the objective of destroying competition of material in interstate commerce and was allowed to prove picketing or refusals to work upon material originating outside the state, should the defendants have been permitted to show that such material was non-union or produced under substandard labor conditions?

12. Where the Government was allowed to prove as overt acts under the alleged conspiracy the picketing and advertising of material as unfair, should the union defendants have been allowed to show the material was

C. I. O. and that they were acting in connection with an industrial war and labor dispute with such rival union, arising from the counter trade movement of the latter to unionize the industry both in California and in the Northwest?

Reasons for Allowance of the Writ

1. The decision rendered herein is in conflict with the decision of the Second Circuit in *Allen Bradley Company v. Local Union No. 3, International Brotherhood of Electrical Workers, No. 339*, decided October 12, 1944. A copy of the Court's opinion in the *Allen Bradley* case is annexed to the brief of the United Brotherhood herein as Appendix B.

2. The decision herein is at variance with the rationale of the decisions of this Court in the cases of *Apex Hosiery Co. v. Leader*, 310 U. S. 469; *U. S. v. Hutcheson*, 312 U. S. 219; *U. S. v. International Hod Carriers*, 313 U. S. 539; *U. S. v. United Brotherhood of Carpenters and Joiners of America*, 313 U. S. 539; *U. S. v. Building and Construction Trades Council of New Orleans*, 313 U. S. 539; and *U. S. v. American Federation of Musicians*, 318 U. S. 741.

3. The case presents squarely the question of the proper application of the Clayton and Norris-LaGuardia Acts to an agreement between employers and employees claimed to be in restraint of interstate commerce. Judicial views have been widely divergent concerning the implications to be derived from the much quoted language of Mr. Justice Frankfurter in the *Hutcheson* case that "So long as a union acts in its self-interest and does not combine with non-labor groups, the licit and illicit under

Sec. 29 are not to be distinguished by any judgment regarding the wisdom or unwisdom, the rightness or wrongness, the selfishness or unselfishness of the end of which the particular union activities are the means." Decisions in the Circuit and District Courts are at variance in cases involving a combination of labor and non-labor groups. It is important that this Court redefine controlling principles since enactment of the Norris-LaGuardia Act. Compare with the instant case and *Allen Bradley Company* v. *Local Union No. 3; International Brotherhood of Electrical Workers* (*supra*), the following: *Truck Drivers' Local* v. *U. S.*, 128 F. 2d 227 (C. C. A. 8); *Albrecht* v. *Kinsella*, 119 F. 2d 1003 (C. C. A. 7); *Gundersheimer's Inc.* v. *Bakery—Confectionery Workers*, 119 F. 2d 205 (C. C. A. Dist. Col.); *U. S.* v. *Goedde and Co.*, 40 F. Supp. 523 (E. D. Ill.); *U. S.* v. *Central Supply Ass'n.*, 40 F. Supp. 964 (N. D. Ohio); *U. S.* v. *Associated Plumbing and Heating Merchants*, 38 F. Supp. 769 (W. D. Wash.); and *U. S.* v. *Bay Area Painters and Decorators Joint Com.*, 49 F. Supp. 733 (N. D. Cal.).

WHEREFORE, petitioners respectfully pray that a Writ of Certiorari be issued out of and under the seal of this Honorable Court directed to the Circuit Court of Appeals for the Ninth Circuit, commanding that Court to certify and to send to this Court for its review and determination, on a day certain to be therein named, a full and complete transcript of the proceedings of said Court herein, being the case numbered and entitled in its dockets as "No. 10,011, *Lumber Products Association, Inc., a corporation, et al., Appellants* v. *United States of America, Appellee.*", and that the judgment of said Court be reviewed by this

Court, and for such other relief as to this Court may seem proper.

Dated: November 4, 1944.

THE BAY COUNTIES DISTRICT COUNCIL OF CARPENTERS OF THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,

THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,

MILLMEN'S UNION NO. 42,

THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,

MILLMEN'S UNION NO. 550,

J. F. CAMBIANO,

C. H. IRISH,

W. P. KELLY,

EMIL H. OVENBERG,

W. L. WILCOX,

CHARLES ROE,

Petitioners.

By JOSEPH O. CARSON, II,
HARRY N. ROUTZOHN,
Attorneys for Petitioners.

HUGH K. MCKEVITT,
JACK M. HOWARD,
Of Counsel for Petitioners.

I hereby certify that in my judgment the foregoing petition is well founded and that it is not interposed for delay.

Dated: November 4, 1944.

HARRY N. ROUTZOHN,
Attorney for Petitioners and a member of the bar of this Court.

BRIEF IN SUPPORT OF PETITION

I

OPINION BELOW

The opinion of the Circuit Court appears in the record pp. 1674-1696 and is reported in 144 Fed. 546.

A copy of the opinion is annexed to the brief of United Brotherhood herein as Appendix A.

II

STATEMENT OF FACTS

1. The Indictment

Stripped of conclusions and characterization, the ultimate factual charge of the indictment is that defendants effectuated a conspiracy to restrain interstate trade in millwork and patterned lumber by defendant employers acceding to wage scale demands of defendant unions in return for which defendant unions agreed not to handle or work on material manufactured under a lesser wage scale (R. 4-37).

2. The Evidence

The case grew out of a trade movement which began about 1935 to overcome the open shop existing in the San Francisco Bay Area since about 1920 and to unionize the industry in that locality (R. 605, 803, 812-814). *Cf. Industrial Ass'n* v. *U. S.* 268 U. S. 64.

In 1935 Local Union No. 42 (San Francisco) obtained an agreement with the employers. In 1936 the agreement containing the so-called restrictive clause was negotiated.

The evidence shows without conflict that such clause was not included at the instance of defendant employers but of defendant unions; that the list of material exempted from the restriction was added at the insistence of the employers over the objection of the unions as a qualification of the latter's complete closed shop demand. The purpose in seeking a closed shop was the normal objectives of jobs for union members and the increase and standardization of wages. The primary motive was to meet a purely local situation existing in the San Francisco Bay Area. The employers were going around the block and buying non-union material and causing the men to work on it. This defeated closed shop principles and the organization efforts directed to the local shops. The result was paragraphs 16 and 17 of the 1936 agreement (R. 283), claimed by the Government to be the *modus operandi* of the conspiracy (R. 608-612; 648-657; 665, 666; 740, 741; 759-765; 792, 797-799, 802, 803; 815, 816; 829-833, 887-894).

The wage scale of 82½¢-92½¢ an hour established by the agreement was not fixed by defendant employers acceding to union demands. It represented a compromise only after the dispute had been carried to the point of arbitration. The scale was accepted by the combined votes of Local Unions No. 42 (San Francisco) and No. 550 (Alameda), after being denounced, however, in the meeting of Local No. 42 as a wage proportionate to truck drivers and not suitable to skilled mechanics. The vote of Local No. 42 was 242 against and 90 for accepting the scale. It was approved by majority vote of the two local unions only, because of the overwhelmingly favorable vote of Local No. 550, Alameda County having been almost totally unorganized until gaining closed shop provisions under this 1936 agreement (R. 1018-1023; 813; 814; 426, 427; 759).

The agreement of 1938 which carried forward similar so-called restrictive clauses in slightly different form contained a wage scale fixed by arbitration, Judge Walter Perry Johnson, a retired state court Judge, having acted as impartial arbitrator (R. 614-617; 768-770).

In the activities of union defendants ascribed by the Government as being in furtherance of the alleged conspiracy by enforcement of the restrictive clauses of the agreement, there is no suggestion of violence or other unlawfulness of method.

Neither was there an iota of evidence to support an allegation of the circulation of price lists and price fixing.

III

ARGUMENT

A. The decision herein errs in holding the indictment and the evidence were sufficient.

1. In the interest of brevity we will discuss the sufficiency of the indictment and of the evidence together. In passing, we observe that as above indicated there were variances between charge and proof. It should also be noted that the recital of facts in the Circuit Court's opinion is predicated solely upon the indictment and does not purport to be a review of the evidence.

Our basic position is that the factual as distinguished from the conclusory charges of the indictment and the evidence both relate to conduct immunized from being a violation of the Anti-trust Law by the Clayton and Norris-LaGuardia Acts.

We believe, as indicated by the foregoing recital of facts, that the evidence shows that the purpose which actuated the union defendants in making and enforcing the restrictive provisions of the agreements was to gain their own objectives and promote their own self-interest. Their ends were to obtain a closed shop and standardization of wages upward.

It further appears that such agreement was made in settlement of a labor dispute involving conditions of employment resulting directly from union demands centered

on those ends. Such is the true effect of the evidence notwithstanding rulings which excluded a direct showing of motive, purpose and intent, as well as evidence that the union activities related to a continuing labor dispute with their own employers and others in the industry.

Clayton Act, Secs. 6, 20;
Norris-LaGuardia Act;
Apex Hosiery Co. v. *Leader*, 310 U. S. 469;
U. S. v. *Hutcheson*, 312 U. S. 219;
U. S. v. *International Hod Carriers*, 313 U. S. 539;
U. S. v. *United Brotherhood of Carpenters and Joiners of America*, 313 U. S. 539;
U. S v. *Building and Construction Trades Council of New Orleans*, 313 U. S. 539;
U. S. v. *American Federation of Musicians*, 318 U. S. 741;
New Negro Alliance v. *Sanitary Grocery Co.*, 303 U. S. 552;
Milk Wagon Drivers Union v. *Lake Valley Farm Products, Inc.*, 311 U. S. 91;
Allen Bradley Company v. *Local Union No. 3, International Brotherhood of Electrical Workers* (C. C. A. 2—No. 339—Oct. 12, 1944);
Gundersheimer's, Inc. v. *Bakery-Confectionery Workers*, 119 F. 2d 205 (C. C. A. Dist. Col.);
Albrecht v. *Kinsella*, 119 F. 2d 1003 (C. C. A. 7);
U. S. v. *Goedde and Co.*, 40 F. Supp. 523 (E. D. Ill.).

2. The agreement not to handle material produced under a lesser wage scale also meets the test of reasonableness under the "rule of reason".

Apex Hosiery Co. v. *Leader*, 310 U. S. 469, 506;
Window Glass Blowers v. *U. S.*, 263 U. S. 403.

3. We respectfully urge that the fundamental fallacy in the decision of the Circuit Court is the holding that when once an agreement is reached between employer and labor groups, any immunities arising from the Clayton and Norris-LaGuardia Acts which attended the negotiation of the agreement are shed. Such an hypothesis is inherently wrong, and destructive of the very purposes fostered by these statutes. It is axiomatic that if labor can lawfully demand a closed shop as to men or materials, employers can lawfully agree to that demand.

Allen Bradley Co. v. *Local Union No. 3; International Brotherhood of Electrical Workers* (*supra*);

U. S. v. *Bay Area Painters and Decorators Joint Com.*, 49 F. Supp. 733, 738 (N. D. Cal.).

B. The opinion of the Circuit Court is unsound in finding no prejudicial error in the trial rulings.

1. By instructions and evidentiary rulings the District Court completely emasculated any possible defense under the Clayton or Norris-LaGuardia Acts. These statutes were held as a matter of law not to constitute a defense, and any question of fact arising thereunder was expressly excluded from the jury. The decision of the Circuit Court herein quotes by way of example a portion of one instruction complained of (R. 1696) and found no prejudicial error. Besides the instruction quoted by the opinion that "It would constitute no defense under the law, either to the employer defendants or to the union defendants that the agreement or understanding may have been arrived at in settlement of a labor dispute; * * *", the jury was told that a motive on the part of the labor union defendants to promote their self-interest would not be a defense (R. 1552); that it was immaterial whether excluded material was union or non-union, and that "The sole question is

whether defendants intended to or did restrain the shipment of millwork and patterned lumber in interstate commerce pursuant to an understanding between the labor union defendants and the non-labor defendants" (R. 1554). The full charge of the Court to the jury is found in the record, pp. 1132-1155.

The evidentiary rulings were of like import. We cite the following by way of illustration.

The union negotiators for the collective bargaining agreement were denied the right to testify concerning motive, intent, or the purpose or objective with which they acted (R. 1483-1485).

Defendants were not allowed to show that material testified about in the Government's case was non-union (R. 1457).

The Court excluded evidence that certain firms in the Northwest, which were the source of material testified about in the prosecution's case, were not organized by the United Brotherhood or entitled to the United Brotherhood label (R. 1499).

Defendants were denied the right of cross examination to show that material was C. I. O. (R. 1456).

Defendants were not permitted to prove the existence of a labor dispute with the C. I. O., both in California and the Northwest, and the relation thereto of their activities (R. 1501; 1497).

These rulings left to the jury the single question of whether the employer-employee agreements not to purchase or work upon material manufactured under a lesser wage scale affected material manufactured in states other than California. In effect, the agreement was ruled illegal per se if it affected material from outside the state.

Completely withdrawn from the jury was any question of fact as to whether the agreement resulted from a bona fide labor dispute. Likewise excluded was any issue of fact concerning the intent, motive, end, purpose or objective of the union defendants.

The decision herein now stands as a precedent for such an unusual application of the Clayton and Norris-LaGuardia Acts.

Implicit in the opinion of this Court in the *Hutcheson* case is the view that where a union has combined with non-labor groups the end, to which its activities have been the means, should be considered.

Every Circuit Court considering the question, except in the instant case, has so construed and applied the rule. In *Truck Drivers Local* v. *U. S.*, 128 F. 2d 227 (C. C. A. 8) it was held that where labor acts alone no intent to violate the Sherman Act can exist as a matter of law, but where it undertakes to act jointly with a non-labor group, the law permits the purpose or intent of the labor group to become a question of fact.

The decision herein is not only in direct conflict with the majority opinion in *Allen Bradley Company* v. *Local Union No. 3, etc.* (*supra*), but is in fact inconsistent with the dissent therein of Judge Swan who believed a modified injunction permissible, predicated upon a finding of purpose to exclude articles from the New York market merely because manufactured outside the state. Here the purpose of the unions was ruled immaterial.

2. The decision herein also condones as not prejudicial error instructions and refusals to instruct upon the subject of responsibility for the acts of others, or for personal acts, as follows:

The District Court instructed to the effect that the labor union organizations, being unincorporated associations, were liable for the act of an agent done within the scope of his authority, or an act he had assumed to do for the union while performing duties actually delegated to him (R. 1530).

The Court declined to instruct to the effect that a labor union could not be found guilty for an unlawful act, if any, of individual officers or agents, except upon clear

proof that the union participated in or actually authorized such act, or ratified it after actual knowledge thereof (R. 1532, 1533).

The result is that the Court, entirely without precedent, applied the Civil rule of *respondeat superior*.

This directly violates Sec. 106 of the Norris-LaGuardia Act, requiring clear proof of actual authorization or ratification after actual knowledge.

It also conflicts with the general rule that criminal liability must be founded upon authorized acts and such authority will not be presumed.

Coronado Coal Co. v. *United Mine Workers*, 268 U. S. 295;

U. S. v. *International Fur Workers*, 100 F. 2d. 541, 547 (C. C. A. 2);

Truck Drivers' Local v. *U. S.*, 128 F. 2d 227, 236 (C. C. A. 8).

CONCLUSION

The writ of certiorari should be granted.

Dated: November 4, 1944.

Respectfully submitted,

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APPENDIX

Sherman Act—Sec. 1: Trusts, etc., in restraint of trade illegal; penalty.—Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding $5000.00, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

(July 2, 1890, 26 Stat. 209, 15 U. S. C. Sec. 1.)

Clayton Act—Sec. 6: Antitrust laws not applicable to labor organizations.—The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

(Oct. 15, 1914, 38 Stat. 731, 15 U. S. C. Sec. 17.)

Clayton Act—Sec. 20: No restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between person employed and persons seeking employment, involving, or

growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do, or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; or shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

(Oct. 15, 1914, 38 Stat. 738, 29 U. S. C. 52.)

Norris-LaGuardia Act—Sec. 102: Public policy of the United States. In the interpretation of this Act and in determining the jurisdiction and authority of the courts of the United States, as such jurisdiction and authority

are herein defined and limited, the public policy of the United States is hereby declared as follows:

Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefore, the following definitions of, and limitations upon, the jurisdiction and authority of the courts of the United States are hereby enacted.

Sec. 104: Grounds for injunction limited. No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:

(a) Ceasing or refusing to perform any work or to remain in any relation of employment;

* * *

(e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence;

* * *

(g) Advising or notifying any person of an intention to do any of the acts heretofore specified;

(h) Agreeing with other person to do or not to do any of the acts heretofore specified; and

(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified, regardless of any such undertaking or promise as is described in section 3 of this Act.

Sec. 105: Same; combinations or conspiracies. No court of the United States shall have jurisdiction to issue a restraining order or temporary or permanent injunction upon the ground that any of the persons participating or interested in a labor dispute constitute or are engaged in an unlawful combination or conspiracy because of the doing in concert of the acts enumerated in section 4 of this Act.

Sec. 106: Member of union when not liable for acts of others. No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of the United States for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of such acts, or ratification of such acts after actual knowledge thereof.

Appendix

Sec. 113: What constitutes labor dispute; participants; courts included. When used in this Act, and for the purposes of this Act:

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employers and one or more employees or associations of employees; (2) between one or more employers or associations of employers and one or more employers or associations of employers; or (3) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" (as hereinafter defined) of "persons participating or interested" therein (as hereinafter defined).

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation

of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(d) The term "court of the United States" means any court of the United States whose jurisdiction has been or may be conferred or defined or limited by Act of Congress, including the courts of the District of Columbia.

(Mar. 23, 1932, 47 Stat. 70, 29 U. S. C. Secs. 102 to 113.)